



Sentence Review Hearing Procedure

To: All criminal defense lawyers working for OPD clients
From: Randi Hood, Chief Public Defender

As you know from prior notices, OPD is trying to assist you and your clients with Sentence Review. To that end, OPD Training Coordinator Eric Olson is happy to accept any sentence review cases and substitute in as counsel of record, but he can only do so if he is made aware of your request for assistance AND am provided with the client's file.

1. THE PROCEDURE:

- a. Eric regularly receives updated lists from the Sentence Review Division (SRD) containing the names of pending petitioners. As he receives them he forwards the lists to the appropriate regional deputy public defenders. The regional deputies then contact the individual attorneys who are listed as counsel of record and advise them of the fact of sentence review and also that OPD will assume responsibility for the hearings if the individual attorneys choose not to do so.
 - b. If you are listed as counsel of record on SRD notices, IT IS YOUR RESPONSIBILITY to affirmatively either: (i) acknowledge to Eric Olson in writing that you will remain responsible for the case, or (ii) notify Eric via email or telephone message that you wish him to assume responsibility for the sentence review matter.
 - c. If you decide that Eric should substitute in for you, YOU must track down the file and have it sent to Eric.
 - d. Once Eric has received your notice, and the file, he will send an email notice to the SRD entering his appearance for the defendant and will copy you with that notice.
 - e. **Unless you have received an email or written pleading from Eric or the OPD Central Office (Butte) acknowledging that Eric or another OPD attorney assigned by him has entered an appearance for the defendant, you remain solely responsible for the case.**
2. We are well aware that many times you have no idea that the defendant (your client or former client) has filed a petition for sentence review. (The filing is generally done *pro se* and notice may not ever have been sent to you.) Nevertheless, **if the SRD has your name listed as counsel of record, you are regarded as counsel of record for all purposes, including hearing** – even if the case was subsequently reassigned or transferred to another attorney for appeal or post conviction. Therefore, it behooves you to carefully scrutinize the SRD hearing notices and act quickly to secure OPD assistance if you would prefer not to have to appear at the sentence review hearing.
 3. Please have professional regard for your (former) client, for the OPD – not to mention for your own neck – and make sure that, if you wish me Eric or an OPD attorney appointed by Eric to handle the sentence review matter, you act timely to contact Eric. Likewise, it is your responsibility – or the responsibility of your office staff – to locate the case file and send it directly to Eric.
 4. Eric is more than happy to talk to any attorneys who wishes OPD assistance and to assist in retrieving the necessary case documentation.
 5. **Barring unavoidable and unforeseen developments, Eric and OPD will NOT accept cases referred to us by you within 10 days of the sentence review hearing date.**
 6. OPD has developed this policy in order to secure the most efficient means of protecting and advancing the interests of the clients, for budgetary reasons, to help reduce the demand on your time, and to help inmates avoid unnecessary continuances or uncounseled waivers. Obviously, if you and your client believe that his/her interests are most effectively addressed

by having you continue to handle the case at sentence review, you should advise Eric accordingly.

7. The SRD panel is looking to OPD (and, thus, to Eric Olson) for specific input regarding representation and is not especially tolerant of failures to appear.

Please contact me or Eric if you have any questions.

Eric can be reached at (406) 523-5170 or at eolson@mt.gov or by mail at 610 North Woody, Missoula, MT 59802.

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